

**Court of Appeals, State of Michigan**

**ORDER**

People of MI v Darold Rodgers

Docket No. 282253

LC No. 06-012351-FH

Stephen L. Borrello  
Presiding Judge

Peter D. O'Connell

Bill Schuette  
Judges

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In lieu of granting the delayed application for leave to appeal, pursuant to MCR 7.205(D)(2), the Court VACATES that portion of the sentence that ordered the defendant to pay attorney fees, and we REMAND this case to the trial court. The court erred in ordering defendant to pay attorney fees without first assessing the defendant's ability to pay. *People v Dunbar*, 264 Mich App 240, 252-256; 690 NW2d 476 (2004). On remand, the court shall address defendant's current and future financial circumstances and foreseeable ability to reimburse the county for attorney fees before determining whether he should pay those fees. At the trial court's discretion, the decision may be made based on the record without the need for a formal evidentiary hearing. *Id.* In all other respects, the delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 11 2008

Date

*Sandra Schultz Mengel*  
Chief Clerk